



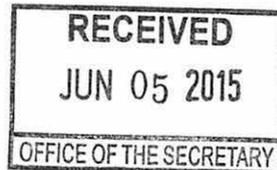
U.S. Department of Justice

United States Attorney  
Eastern District of New York

WMP:WK  
F. #2012R01558

271 Cadman Plaza East  
Brooklyn, New York 11201

June 4, 2015



By E-mail, Facsimile & Overnight Delivery

Brent J. Fields, Secretary  
Office of the Secretary  
U.S. Securities and Exchange Commission  
100 F Street, N.E.  
Mail Stop 1090  
Washington, D.C. 20549-2557

Re: In the Matter of Aegis Capital, LLC, et al.  
Administrative Proceeding File No. 3-16463

Dear Mr. Fields:

Enclosed, please find an original and three copies of the United States Attorney's Reply Memorandum (1) in Further Support of the United States Attorney's Application to Intervene in and Motion for an Order to Stay this Administrative Proceeding pending the resolution of related criminal proceedings in the Eastern District of New York; and (2) in response to the Opposition of Respondents Strategic Consulting Advisors and David I. Osunkwo to the United States Attorney's Application and Motion, dated May 27, 2015.

Thank you for your attention to this matter.

Respectfully submitted,

KELLY T. CURRIE  
Acting United States Attorney

By: \_\_\_\_\_ /s/  
Whitman G.S. Knapp  
Assistant U.S. Attorney  
(718) 254-6107

c.c.: All parties and counsel on the enclosed Certificate of Service

**UNITED STATES OF AMERICA**  
**Before the**  
**SECURITIES AND EXCHANGE COMMISSION**

ADMINISTRATIVE PROCEEDING  
File No. 3-16463

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In the Matter of

AEGIS CAPITAL, LLC,  
CIRCLE ONE WEALTH  
MANAGEMENT, LLC,  
DIANE W. LAMM,  
STRATEGIC CONSULTING  
ADVISORS, LLC, and  
DAVID I. OSUNKWO,

Respondents.

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**CERTIFICATE OF SERVICE**

I, Whitman G.S. Knapp, certify that on the 4<sup>th</sup> day of June, 2015, I caused true and correct copies of the United States Attorney's Reply Memorandum (1) in Further Support of the United States Attorney's Application to Intervene in and Motion for an Order to Stay this Administrative Proceeding pending the resolution of related criminal proceedings in the Eastern District of New York; and (2) in response to the Opposition of Respondents Strategic Consulting Advisors and David I. Osunkwo to the United States Attorney's Application and Motion, dated May 27, 2015, to be filed and served on the following by the delivery methods set forth below:

**BY FACSIMILE, EMAIL AND OVERNIGHT MAIL**

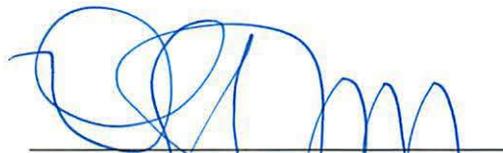
Brent J. Fields, Secretary  
Office of the Secretary  
U.S. Securities and Exchange Commission  
100 F Street, N.E.  
Mail Stop 1090  
Washington, D.C. 20549-2557  
FieldsB@sec.gov

BY EMAIL

<p>The Honorable James Grimes Administrative Law Judge Securities and Exchange Commission 100 F Street, N.E. Washington, D.C. 20549-2557 alj@sec.gov</p>	<p>Harlan Protass, Esq. Isabelle Kirshner, Esq. Clayman &amp; Rosenberg LLP 305 Madison Avenue New York, NY 10165 protass@clayro.com kirshner@clayro.com (Counsel for Respondant Diane M. Lamm)</p>
<p>W. Shawn Murnahan, Esq. M. Graham Loomis, Esq. Atlanta Regional Office Securities and Exchange Commission 950 East Paces Ferry Road, N.E. Atlanta, GA 30326 MurnahanW@sec.gov LoomisM@sec.gov</p>	<p>Robert Heim, Esq. Meyers &amp; Heim LLP 444 Madison Ave., 30th Floor New York, NY 10022 RHeim@meyersandheim.com (Counsel for Strategic Consulting Advisors, LLC and David I. Osunkwo)</p>

BY U.S. MAIL

<p>Aegis Capital, LLC c/o Mr. John R. Lakian, Director 26 East 63rd Street, 8A New York, NY 10065</p>	<p>Circle One Wealth Management, LLC c/o Mr. J. R.. Lakian, Director &amp; Chairman 26 East 63rd Street, 8A New York, NY 10065</p>
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Whitman G.S. Knapp

WK  
F. # 2012R01558

**UNITED STATES OF AMERICA**  
**Before the**  
**SECURITIES AND EXCHANGE COMMISSION**

ADMINISTRATIVE PROCEEDING  
File No. 3-16463

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In the Matter of

AEGIS CAPITAL, LLC,  
CIRCLE ONE WEALTH  
MANAGEMENT, LLC,  
DIANE W. LAMM,  
STRATEGIC CONSULTING  
ADVISORS, LLC, and  
DAVID I. OSUNKWO,

UNITED STATES ATTORNEY'S  
REPLY TO RESPONDENTS  
STRATEGIC CONSULTING  
ADVISORS, LLC AND DAVID I.  
OSUNKWO'S OPPOSITION TO THE  
UNITED STATES ATTORNEY'S  
APPLICATION TO INTERVENE AND  
MOTION TO STAY

Respondents.

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Kelly T. Currie, Acting United States Attorney for the Eastern District of New York (the “United States Attorney”), through the undersigned Assistant United States Attorney, submits this reply memorandum (1) in further support of the United States Attorney’s Application to Intervene in and Motion for an Order to Stay this Administrative Proceeding pending the resolution of related criminal proceedings in the Eastern District of New York; and (2) in response to the Opposition of Respondents Strategic Consulting Advisors and David I. Osunkwo to the United States Attorney’s Application and Motion.

In their memorandum, Strategic Consulting Advisors and David I. Osunkwo contend that “there is no real factual overlap between the criminal and civil proceedings” herein. *See* the Respondents’ Memorandum, filed May 27, 2011, pp. 1, 3-4. To the contrary, as explained in the United States Attorney’s moving papers, filed May 18, 2018 (“Moving Papers”), pp. 1-3, there is significant overlap between the civil and the criminal proceedings. To amplify the earlier submission, the United States Attorney additionally directs the Court’s attention to the following: (1) allegations contained in the Securities and Exchange Commission’s (“Commission’s”) Order Instituting Proceedings (“OIP”); (2) information and testimony provided by Respondent Osunkwo; and (3) allegations contained in the indictment (“Indictment”) in the *United States v. Lakian & Lamm*, 15-CR-43 (FB) (“the Criminal Case”). As set forth below, these further evidence the related nature of the criminal and administrative proceedings.

(1) Order Instituting Proceedings

Among other things, the OIP specifies the following:

- At all relevant times, Respondent Lamm served as Chief operating officer both of Capital L Group, LLP (“Capital L”) and Respondents Aegis Capital LLC (“Aegis Capital”) and Circle One Wealth Management, LLC (“Circle One”) (collectively, “Registrants”). OIP ¶ 5.

- Capital L is the Registrants' parent holding company. *Id.*
- Lamm was responsible for Capital L's Operations Department, which included accounting and keeping and maintaining Registrant's books and records. OIP ¶ 22.
- Osunkwo contracted with Capital L in 2010 and 2011 to provide Chief Compliance Officer ("CCO") services to Respondents Aegis Capital LLC ("Aegis Capital") and Circle One Wealth Management, LLC ("Circle One") (collectively, "Registrants"). OIP ¶ 6.

(2) Osunkwo's Statements & Information

In testimony provided to the Commission, and in a letter submitted in response to a Commission request, Osunkwo volunteered the following information:

- Osunkwo's work for Capital L was not limited to work for the Registrants. "[T]here's also other entities in Capital L that I – remember, my designation is CCO for Capital L, which includes entities other than the registered investment advisors."<sup>1</sup>
- Aegis Capital Fund, LLC, was managed by Aegis Funds Management, LLC, a direct subsidiary of Capital L.<sup>2</sup>
- The recorded assets held by investors in Aegis Capital Fund, LLC, were included in the 2010 and 2011 Forms ADV that are subjects of the OIP.<sup>3</sup>

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<sup>1</sup> Pursuant to an access request, the Commission ("the Commission") has provided the United States Attorney with the transcript of testimony provided by Osunkwo to the Commission on Monday, October 17, 2011, and related Exhibits. The testimony cited herein appears at page 277, lines 3-10, in response to a question as to whether SC Advisors' monthly fee to Capital L (\$18,000) was high for an entity that had only "\$4 million and some" dollars under management. At the Court's request, the United States Attorney will provide a full copy of this testimony.

<sup>2</sup> This information was provided as a part of an August 17, 2011 letter from Respondent Osunkwo in response to a Commission request. The letter and attachments make up Exhibit 7 ("Ex. 7") to Osunkwo's October 17, 2011 testimony. The information cited is reflected, in particular, in the attachments entitled "Capital L Group, LLC Organizational Chart" and "Capital L Group LLC Entities." At the Court's request, the United States Attorney will provide a copy of this exhibit.

<sup>3</sup> See Ex. 7, attachment entitled "AUM Reconcile Request."

(3) The Indictment

The indictment in the Criminal Case alleges that, during the time period that Osunkwo served as CCO for Capital L and provided his services to related entities:

- Respondent Diane Lamm and John Lakian, Registrants' Director (*see* OIP service list),<sup>4</sup> defrauded Capital L investors in connection with investments of more than \$8 million, by means of material misrepresentations and omissions. Indictment, ¶¶ 6-8.
- Respondent Lamm and John Lakian defrauded Investors in Aegis Capital Fund, LLC through material misrepresentations and omissions. Indictment, ¶¶ 9-10.

In sum, in 2010 and 2011 Osunkwo worked for Capital L as a CCO. The OIP specifies that Osunkwo was improperly mixing together the books and records of affiliated entities and issuing false Forms ADV. The Indictment alleges, in addition, that while Osunkwo was serving as CCO for Capital L, Lakian and Lamm were embezzling money from Capital L investors and from investors a related entity, the Aegis Fund. The Capital L-related entities cited in the OIP and the Indictment are manifestly intertwined and Osunkwo, the CCO, falls squarely in the midst of the conduct laid out in the OIP and the Indictment.

For these reasons, and those provided in the Moving Papers, this administrative proceeding and the Criminal Case are closely related, and Strategic Consulting Advisors' and David I. Osunkwo's assertions to the contrary are without merit. Accordingly, the continuation and disposition of this administrative proceeding will substantially prejudice the Criminal Case, hinder the criminal enforcement of the securities laws at issue, and impair the ability of the parties to obtain all relevant evidence in this administrative proceeding.

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<sup>4</sup> Lakian also represented himself to be Capital L's Chairman and CEO in contemporaneous financial institution documentation.

**CONCLUSION**

WHEREFORE, the United States Attorney respectfully requests an Order staying this administrative proceeding pending the disposition of the Criminal Case.

Dated: Brooklyn, New York  
June 4, 2015

Respectfully submitted,

KELLY T. CURRIE  
Acting United States Attorney  
Eastern District of New York

By: /s/ Whitman G.S. Knapp  
Whitman G.S. Knapp  
Assistant United States Attorney  
(718) 254-6107  
whitman.knapp@usdoj.gov

**EXHIBIT A**

FILED  
CLERK  
2015 FEB - 3 PM 4:09  
U.S. DISTRICT COURT  
EASTERN DISTRICT  
OF NEW YORK

WMP:WK  
F. #2012R01558

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----X

UNITED STATES OF AMERICA

INDICTMENT

- against -

JOHN R. LAKIAN and  
DIANE M. LAMM,  
Defendants.

CR No 15-0043  
T. 15, U.S.C., §§ 78j(b) and 78ff;  
T. 18, U.S.C., §§ 371, 981(a)(1)(C),  
982(a)(2)(A), 1349, 2 and 3551 et seq.;  
T. 21, U.S.C., § 853(p); T. 28, U.S.C.,  
2461(c)

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THE GRAND JURY CHARGES:

INTRODUCTION

SCANLON, M.J.

At all times relevant to this Indictment, unless otherwise indicated:

I. The Defendants and Relevant Entities

1. The defendants JOHN R. LAKIAN and DIANE W. LAMM owned and lived in a home they shared in Mount Pleasant, South Carolina. In or about 2012, LAKIAN and LAMM sold the house in Mount Pleasant and moved to a house in Highlands, North Carolina.

2. The defendant JOHN R. LAKIAN was a shareholder and managing member of Pangea Capital Management, LLC ("Pangea Capital"), a Delaware limited liability investment management company with its principal place of business in New York, New York. On or about October 9, 2009, LAKIAN purchased, on behalf of Pangea Capital, a majority stake of Aegis Advisor Alliance, LLC ("Aegis Advisor").

3. The defendants JOHN R. LAKIAN and DIANE W. LAMM sat on Aegis Advisor's three-person board of management, which had broad control over the company. By January 2010, LAKIAN and LAMM had complete control of Aegis Advisor with LAKIAN

serving as the Chief Executive Officer (“CEO”) and LAMM as the Chief Operating Officer (“COO”). On or about February 4, 2010, LAKIAN and LAMM changed Aegis Advisor’s name to Capital L Group, LLC (“Capital L”). On or about February 10, 2010, LAKIAN secured sole authority to manage Pangea Capital’s interests in Capital L.

4. On or about December 1, 2011, the defendants JOHN R. LAKIAN and DIANE W. LAMM sold Capital L to an investor, relinquished their interests in the company, resigned their positions and stepped down as members of the board, in return for \$600,000. Additionally, Capital L transferred, inter alia, the following subsidiaries to LAKIAN and LAMM: (i) Aegis Capital Fund, LLC (the “Aegis Fund”), a Charlotte, North Carolina-based investment fund with more than 100 investors, and (ii) Circle One Group, LLC (“Circle One”), a Delaware limited liability company. The equity interest in the subsidiaries was transferred from Capital L to JRL Investment, LLC (“JRL Investment”), a Delaware limited liability company with its principal place of business at the defendants’ home in Mount Pleasant, South Carolina.

5. The defendants JOHN R. LAKIAN and DIANE W. LAMM also controlled, inter alia, JRL Investment Group, Inc. (“JRL Group”); JRL Investment II, Inc. (“JRL Investment II”); JRL Group III, LLC (“JRL Group III”); and a restaurant chain including Roadside Kitchens, LLC (“Roadside Kitchens”).

## II. The Fraudulent Schemes

### A. The Registered Investment Advisor Schemes

6. In or about and between February 2009 and December 2011, the defendants JOHN R. LAKIAN and DIANE W. LAMM, together with others, executed a scheme to defraud investors and potential investors in Pangea Capital by obtaining investments through material

misrepresentations and omissions. Specifically, LAKIAN and LAMM told investors and potential investors in, inter alia, meetings, telephone calls and marketing materials that investor funds would be used to purchase and consolidate small- to mid-sized registered investment advisory firms (“RIAs”) into one larger entity, which would then be “monetized” by selling it to a private purchaser or by selling its shares in a public offering.

7. To execute this scheme to defraud, in October 2009, the defendant JOHN R. LAKIAN, as a managing member of Pangea Capital, used investor funds to purchase 70% of Aegis Advisor for \$3,000,000. Aegis Advisor was a company that included both a subsidiary RIA and an investment management company. Pursuant to the purchase agreement, Aegis Advisor would use \$2,250,000 of the \$3,000,000 investment to finance acquisition of additional RIAs. Contrary to these representations, within a month of Pangea Capital’s acquisition of Aegis Advisor, more than \$1,700,000 of the \$3,000,000 raised for the acquisition was transferred from Aegis Advisor into bank accounts controlled by LAKIAN and the defendant DIANE W. LAMM. A significant amount of this money was used by LAKIAN and LAMM for, inter alia, personal purposes unrelated to the acquisition of RIAs.

8. In furtherance of this scheme to defraud, in or about and between July 2010 and November 2011, the defendants JOHN R. LAKIAN and DIANE W. LAMM, together with others, executed a scheme to defraud investors and potential investors in Aegis Advisor, later renamed Capital L, by obtaining investments through material misrepresentations and omissions. Specifically, LAKIAN and LAMM told investors and potential investors in, inter alia, meetings, telephone calls and promotional materials that investor funds would be used to purchase and consolidate small- to mid-sized RIAs. Based on these representations, LAKIAN and LAMM

raised more than \$8,000,000 from the Aegis Advisor investors. Contrary to these representations and unknown to investors, LAKIAN and LAMM used a significant portion of investor funds for, inter alia, personal purposes unrelated to the acquisition of RIAs, including for the payment of LAKIAN's and his wife's home mortgage and to fund Roadside Kitchens and related restaurant entities owned and controlled by LAKIAN and LAMM.

**B. The Aegis Capital Fund Scheme**

9. In or about and between December 2009 and July 2013, the defendants JOHN R. LAKIAN and DIANE W. LAMM, together with others, executed a scheme to defraud investors and potential investors in the Aegis Fund through material misrepresentations and omissions. Beginning in approximately December 2009, LAKIAN and LAMM exercised control over the Aegis Fund's investment decisions. Over the next two years, the Aegis Fund's net asset value decreased from more than \$27,000,000 to approximately \$13,000,000. During this time period, LAKIAN and LAMM directed more than \$1,000,000 of investor funds from the Aegis Fund to the Roadside Kitchens and related restaurant entities owned and controlled by LAKIAN and LAMM.

10. In or about May 2011, the Aegis Fund was placed into liquidation, a process pursuant to which no new investments were supposed to be made, and all the investments and assets were supposed to be sold so that the investors could be paid from the proceeds of the sale. Contrary to the representations made to investors during the liquidation process, the defendants JOHN R. LAKIAN and DIANE W. LAMM used the proceeds from the liquidation for, inter alia, their personal use and other business ventures. For example, one of the Aegis Fund's investments was a loan to Power Company 1, an entity whose identity is known to the Grand Jury. In or about

April 2012, Power Company 1 was ready to make a \$120,000 interest payment on the loan to the Aegis Fund. Rather than use these proceeds to pay investors, LAKIAN and LAMM directed that the payment be sent by wire transfer to Circle One's bank account, which was established and controlled by LAKIAN and LAMM. On or about April 30, 2012, in a telephone call with investors, LAKIAN and LAMM actively concealed the interest payment from Power Company 1 and LAKIAN falsely assured the investors, inter alia, "any money that comes into the fund would be distributed to you, we have no legal right to anything. . . . The money that we are able to liquefy in this fund would come back to you all, nothing comes to us. Zero."

C. The Bank Fraud Scheme

11. In or about and between 2009 and 2012, the defendants JOHN R. LAKIAN and DIANE W. LAMM, together with others, executed a scheme to fraudulently obtain more than \$8,000,000 in loans from federally insured banks through material misrepresentations and omissions. Specifically, LAKIAN and LAMM submitted extensive false information to four banks, including forged tax returns and false pay stubs.

12. On or about December 7, 2009, the defendant JOHN R. LAKIAN applied to a TD Bank located in Merrick, New York ("TD Bank") for a \$250,000 loan, to be secured by property owned by LAKIAN and his wife on Shelter Island ("the Shelter Island Property"). At LAKIAN's request, on or about December 1, 2009, LAMM sent an email to the TD Bank manager attaching a fraudulent Internal Revenue Service ("IRS") Form 1040 tax returns ("1040s") and phony pay stubs. The fraudulent 1040s reported adjusted gross income for LAKIAN and his wife in the amount of \$2,157,527 for 2007 and \$1,184,432 for 2008. In fact, the 1040s that LAKIAN and his wife actually filed with the IRS reported adjusted gross income in the amount of \$633,868

for 2007 and \$584,342 for 2008. Similarly, the phony pay stubs purported to reflect that LAKIAN received an annual salary of \$670,000 in 2009 from Pangea Capital. In fact, LAKIAN received no salary from the company. Based on the false information that LAKIAN and LAMM provided to TD Bank, TD Bank granted the loan application and extended a \$250,000 loan to LAKIAN.

13. On or about December 23, 2009, the defendant JOHN R. LAKIAN applied to HSBC Bank in Brooklyn, New York (“HSBC Bank”) for a \$3,000,000 mortgage on the Shelter Island Property. As part of the application, LAKIAN and the defendant DIANE W. LAMM submitted copies of the same fraudulent 1040s submitted to TD Bank, as well as phony pay stubs. Based on the false information that LAKIAN and LAMM provided to HSBC Bank, HSBC Bank approved LAKIAN’s loan application, but LAKIAN ultimately declined to accept the loan.

14. On or about February 1, 2010, the defendant JOHN R. LAKIAN, through JRL Group III, applied to Bridgehampton National Bank in Southold, New York (“Bridgehampton Bank”) for a \$2,350,000 loan to purchase the Chequit Inn on Shelter Island, New York. That same day, the defendant DIANE W. LAMM sent an email to a Bridgehampton Bank senior vice president attaching copies of the same fraudulent 1040s submitted to TD Bank and HSBC Bank and phony pay stubs. The phony pay stubs submitted to Bridgehampton Bank, *inter alia*, reflected improper Social Security deductions. Additionally, LAKIAN and LAMM submitted a forged bank statement to Bridgehampton Bank, purporting to show that LAKIAN had more than \$1,400,000 in an account that in fact contained less than \$13,000. At some point after submitting the fake 1040s and paystubs, LAKIAN withdrew his loan application from Bridgehampton Bank.

15. On or about March 22, 2012, the defendant JOHN R. LAKIAN applied to Bank of America in New York, New York ("Bank of America") for a \$2,560,700 mortgage on the Shelter Island Property. As part of the application, LAKIAN and the defendant DIANE W. LAMM submitted copies of fraudulent 1040s and phony pay stubs. The fraudulent 1040s reported that LAKIAN and his wife received adjusted gross income in the amounts of \$2,280,010 in 2009 and \$2,157,527 in 2010. In fact, the 1040s filed by LAKIAN and his wife with the IRS reported adjusted gross income in the amounts of \$7,784 and negative \$30,191, respectively. Bank of America denied LAKIAN's loan application.

COUNT ONE

(Conspiracy to Commit Securities and Wire Fraud –  
The Registered Investment Advisor Theft Scheme)

16. The allegations contained in paragraphs one through fifteen are realleged and incorporated as though fully set forth in this paragraph.

17. In or about and between February 2009 and December 2011, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendants JOHN R. LAKIAN and DIANE W. LAMM, together with others, did knowingly and willfully conspire:

a. to use and employ manipulative and deceptive devices and contrivances, contrary to Rule 10b-5 of the Rules and Regulations of the United States Securities and Exchange Commission, Title 17, Code of Federal Regulations, Section 240.10b-5, by: (a) employing devices, schemes and artifices to defraud; (b) making untrue statements of material fact and omitting to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and (c) engaging in acts, practices

and courses of business which would and did operate as a fraud and deceit upon investors and potential investors in Pangea Capital, Aegis Advisor and Capital L, in connection with the purchase and sale of investments in Pangea Capital, Aegis Advisor and Capital L, directly and indirectly, by use of means and instrumentalities of interstate commerce and the mails, contrary to Title 15, United States Code, Sections 78j(b) and 78ff; and

b. to devise a scheme and artifice to defraud investors and potential investors in Pangea Capital, Aegis Advisor and Capital L, and to obtain money and property from them by means of materially false and fraudulent pretenses, representations and promises, and for the purpose of executing such scheme and artifice, to transmit and cause to be transmitted, by means of wire communication in interstate and foreign commerce, writings, signs, signals, pictures and sounds, contrary to Title 18, United States Code, Section 1343.

18. In furtherance of the conspiracy and to effect its objects, within the Eastern District of New York and elsewhere, the defendants JOHN R. LAKIAN and DIANE W. LAMM, together with others, committed and caused to be committed, among others, the following:

OVERT ACTS

a. On or about September 30, 2009, LAKIAN and LAMM opened a bank account in the name of JRL Investment II in Mount Pleasant, South Carolina.

b. On or about February 10, 2010, LAKIAN entered into an agreement to secure sole authority to manage Pangea Capital's interests in Capital L.

c. On or about July 29, 2010, LAKIAN and LAMM met with Investor Representative One, an individual whose identity is known to the Grand Jury, in Charlotte, North Carolina.

d. On or about December 22, 2010, LAKIAN sent an email to Investor Representative Two, an individual whose identity is known to the Grand Jury, representing that investment proceeds would be used to acquire an RIA and to serve as working capital.

e. On or about February 5, 2011, LAMM directed the transfer of \$350,000 of Capital L investors' money to bank accounts held in the names of either LAKIAN or LAMM.

f. On or about April 15, 2011, LAMM directed the transfer of \$100,000 of investors' money from an account at Carolina First Bank, held in the name of JRL Group, to an account at Carolina First Bank, held in the name of Roadside Kitchens.

g. On or about July 27, 2011, LAMM directed the transfer of \$85,000 of Capital L investors' money to restaurant entities controlled by LAKIAN and LAMM.

(Title 18, United States Code, Sections 371 and 3551 et seq.)

**COUNT TWO**

(Conspiracy to Commit Securities and Wire Fraud - The  
Aegis Capital Fund Theft Scheme)

19. The allegations contained in paragraphs one through fifteen are realleged and incorporated as though fully set forth in this paragraph.

20. In or about and between December 2010 and July 2013, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendants JOHN R. LAKIAN and DIANE W. LAMM, together with others, did knowingly and willfully conspire:

a. to use and employ manipulative and deceptive devices and contrivances, contrary to Rule 10b-5 of the Rules and Regulations of the United States Securities

and Exchange Commission, Title 17, Code of Federal Regulations, Section 240.10b-5, by: (a) employing devices, schemes and artifices to defraud; (b) making untrue statements of material fact and omitting to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and (c) engaging in acts, practices and courses of business which would and did operate as a fraud and deceit upon investors and potential investors in the Aegis Fund, in connection with the purchase and sale of investments in the Aegis Fund, directly and indirectly, by use of means and instrumentalities of interstate commerce and the mails, contrary to Title 15, United States Code, Sections 78j(b) and 78ff; and

b. to devise a scheme and artifice to defraud investors and potential investors in the Aegis Fund, and to obtain money and property from them by means of materially false and fraudulent pretenses, representations and promises, and for the purpose of executing such scheme and artifice, to transmit and cause to be transmitted, by means of wire communication in interstate and foreign commerce, writings, signs, signals, pictures and sounds, contrary to Title 18, United States Code, Section 1343.

21. In furtherance of the conspiracy and to effect its objects, within the Eastern District of New York and elsewhere, the defendants JOHN R. LAKIAN and DIANE W. LAMM, together with others, committed and caused to be committed, among others, the following:

OVERT ACTS

a. On or about December 8, 2011, LAKIAN and LAMM opened an account in the name of Circle One at a Southcoast Community Bank in Mount Pleasant, South Carolina.

b. On or about April 20, 2012, LAKIAN sent an email to Power Company 1 personnel confirming that the Power Company should send a payment due to the Aegis Fund to LAKIAN and LAMM's Circle One bank account.

c. On or about June 5, 2013, LAKIAN and LAMM opened an account in the name of the Aegis Fund (the "Highlands Account") at Bank of America in Highlands, North Carolina.

d. On or about June 24, 2013, LAKIAN sent an email directing that the proceeds of an Aegis Fund investment be sent to the Highlands Account.

(Title 18, United States Code, Sections 371 and 3551 et seq.)

**COUNT THREE**

(Securities Fraud – The Registered Investment Advisor Scheme)

22. The allegations contained in paragraphs one through fifteen are realleged and incorporated as though fully set forth in this paragraph.

23. In or about and between February 2009 and December 2011, both dates being approximate and inclusive, within the Western District of North Carolina and elsewhere, the defendants JOHN R. LAKIAN and DIANE W. LAMM, together with others, did knowingly and willfully use and employ one or more manipulative and deceptive devices and contrivances, contrary to Rule 10b-5 of the Rules and Regulations of the United States Securities and Exchange Commission, Title 17, Code of Federal Regulations, Section 240.10b-5, by: (a) employing one or more devices, schemes and artifices to defraud; (b) making one or more untrue statements of material fact and omitting to state one or more material facts necessary in order to make the statements made, in the light of the circumstances in which they were made, not misleading; and

**(c) engaging in one or more acts, practices and courses of business which would and did operate as a fraud and deceit upon one or more investors and potential investors in Pangea Capital and Capital L, in connection with the purchases and sales of investments in Pangea Capital and Capital L, directly and indirectly, by use of means and instrumentalities of interstate commerce and the mails.**

**(Title 15, United States Code, Sections 78j(b) and 78ff; Title 18, United States Code, Sections 2 and 3551 et seq.)**

**COUNT FOUR**

**(Securities Fraud – The Aegis Capital Fund Scheme)**

**24. The allegations contained in paragraphs one through fifteen are realleged and incorporated as though fully set forth in this paragraph.**

**25. In or about and between December 2010 and July 2013, both dates being approximate and inclusive, within the Western District of North Carolina and elsewhere, the defendants JOHN R. LAKIAN and DIANE W. LAMM, together with others, did knowingly and willfully use and employ one or more manipulative and deceptive devices and contrivances, contrary to Rule 10b-5 of the Rules and Regulations of the United States Securities and Exchange Commission, Title 17, Code of Federal Regulations, Section 240.10b-5, by: (a) employing one or more devices, schemes and artifices to defraud; (b) making one or more untrue statements of material fact and omitting to state one or more material facts necessary in order to make the statements made, in the light of the circumstances in which they were made, not misleading; and (c) engaging in one or more acts, practices and courses of business which would and did operate as a fraud and deceit upon one or more investors and potential investors in the Aegis Fund, in**

connection with the purchases and sales of investments in the Aegis Fund, directly and indirectly, by use of means and instrumentalities of interstate commerce and the mails.

(Title 15, United States Code, Sections 78j(b) and 78ff; Title 18, United States Code, Sections 2 and 3551 et seq.)

**COUNT FIVE**  
**(Bank Fraud Conspiracy)**

26. The allegations contained in paragraphs one through fifteen are realleged and incorporated by reference as if fully set forth in this paragraph.

27. In or about and between September 2009 and May 2012, both dates being approximate and inclusive, within the Eastern District and elsewhere, the defendants JOHN R. LAKIAN and DIANE W. LAMM, together with others, did knowingly and intentionally conspire to execute and attempt to execute a scheme and artifice to defraud TD Bank, HSBC Bank, Bridgehampton Bank and Bank of America, financial institutions the deposits of which were insured by the Federal Deposit Insurance Corporation, and to obtain moneys, funds, credits and other property owned by and under the custody and control of these banks by means of materially false and fraudulent pretenses, representations and promises, contrary to Title 18, United States Code, Section 1344.

(Title 18, United States Code, Sections 1349, 2 and 3551 et seq.)

**CRIMINAL FORFEITURE ALLEGATION**  
**FOR COUNTS ONE THROUGH FOUR**

28. The United States hereby gives notice to the defendants JOHN R. LAKIAN and DIANE W. LAMM that upon their conviction of any of the offenses charged in Counts One

through Four, the government will seek forfeiture, in accordance with Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), of any property, real or personal, which constitutes or is derived from proceeds traceable to such offense.

29. If any of the above-described forfeitable property, as a result of any act or omission of the defendants:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party;
- c. has been placed beyond the jurisdiction of the court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be divided

without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of the defendants up to the value of the forfeitable property described in this forfeiture allegation.

(Title 18, United States Code, Section 981(a)(1)(C); Title 21, United States Code, Section 853(p); Title 28, United States Code, Section 2461(c))

**CRIMINAL FORFEITURE ALLEGATION**  
**FOR COUNT FIVE**

30. The United States hereby gives notice to the defendants JOHN R. LAKIAN and DIANE W. LAMM that upon their conviction of the offense charged in Count Five, the

government will seek forfeiture in accordance with Title 18, United States Code, Section 982(a)(2)(A), which requires any person convicted of such offense to forfeit any property constituting, or derived from, proceeds obtained directly or indirectly, as a result of such offense.

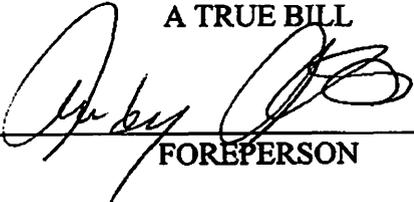
31. If any of the above-described forfeitable property as a result of any act or omission of the defendants:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party;
- c. has been placed beyond the jurisdiction of the court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be divided

without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of the defendants up to the value of the forfeitable property described in this forfeiture allegation.

(Title 18, United States Code, Section 982(a)(2)(A); Title 21, United States Code, Section 853(p))

A TRUE BILL  
  
\_\_\_\_\_  
FOREPERSON

\_\_\_\_\_  
LORETTA E. LYNCH  
UNITED STATES ATTORNEY  
EASTERN DISTRICT OF NEW YORK

BY:   
ACTING UNITED STATES ATTORNEY  
PURSUANT TO 28 C.F.R. 0.138

F. #2012R01558  
FORM DBD-34  
JUN. 85

No. \_\_\_\_\_

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**UNITED STATES DISTRICT COURT**

**EASTERN District of NEW YORK**

**CRIMINAL DIVISION**

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**THE UNITED STATES OF AMERICA**

vs.

*JOHN R. LAKLAN, et al.,*

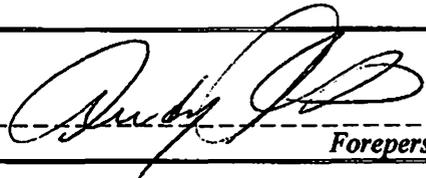
**Defendants.**

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**INDICTMENT**

(T. 15, U.S.C., §§ 78j(b) and 78ff; T. 18, U.S.C., §§ 371, 981(a)(1)(c), 982(a)(2)(A), 1343, 1344, 2 and 3551 et seq.; T.21, U.S.C., § 853(p); T. 28, U.S.C., 2461(c))

*A true bill.*



*Foreperson*

*Filed in open court this \_\_\_\_\_ day,*

*of \_\_\_\_\_ A.D. 20 \_\_\_\_\_*

*Clerk*

**Bail, \$** \_\_\_\_\_

*Whitman Knapp, Assistant U.S. Attorney (718) 254-6107*